G. R. S. 58]

Previous references. 1890 ~~190~~.

File No. 51

Serial Nos.

Later references. (Land Revenue)

L.R. 485-02

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 — 5

Part B for July 02

SUBJECT.

Appeal against the sale of S. No. 42 of Hermaghatta Shimoga Tq.

Indexed
Appendix

W D 1351—GPB—20,000—13-12-15

Mercee

The point of contention is — whether the land in question is ceiling land, and as such not liable to affect the satisfaction of a civil decree

The Shivamogga Amr in respect of the Appellant's order dated

In accordance with the Appellant's order No 915 & the land is entered in the accounts as "Archakamanya Inam" land. From the year Parthiva 85-86 full assessment (Podi) is levied on the number

* Report no. 342 dt 29.7.90.

& not reco

As Bellha Potgieters
been sanctioned ✓

Final remuneration
of Mr Peters & Shambloss
of Mr Thomas Veluk
was sanctioned in.
Govt. Res: no: 950-60
dated 16th Sept 1885.
put up.

from paras 5 & 6 of Mr Prop: ^ full
assessment is ordered
to be levied and full
compensation in cash
ordered to be given as
a temporary measure

(Query) whether Mr Lewis
loss is character
as service mean
under the circumstances,
& whether under cl:(d)
rule 43 of Land Rev:
Rules it can be
attached in satisfaction
of a civil decree

11/3/92

Submitted. Res. no. 8554-61
Decision in A.S. no. 420 put up

Memo - II

re - Petition of Sri Subbaya
Shetty
Sheristhedar of Haraan
Sheristha of Dharwar
Taluk.

Last order
Put up similar
Case & papers con-
nected therewith.

Pro. no. 8554-61
cc: 170

With their refs:
Put up
purchase Amendment
leaving suit Case
pleaded his Case
has been again posted
for hearing on 20
June 1962.

Submitted.
14/6/62 Council

15/6/62
20th June 1962
Same order
15/6

Memo.

References pending orders:—

I. Petition No. 401/A.2 of 1891-92
Petr Sheshia of Haranhatta

II " No 177 of "
Petr Ananthia of Chikkahejjaji

III Shimoga Dy Com^r's letter No 416/345
dated 25-10-93.

IV D^o No 985/943 dated 17.1.93.

V Hassan Dy Com^r No 147 dt 19-8-93

VI Petn No 2104 of 1893-94
Petr Nilkantaiyer.

A brief note giving the facts of the above cases is appended (appendix I).

The questions for consideration are:—

(1) Whether Umbli lands charged with additional Jodi or full assessment at the Pakka Potapi Settlement may be alienated by holders thereof or sold in satisfaction of arrears of revenue or of a decree of a Civil Court, and Patta thereof made in the name of Purchasers.

(2) Whether the request of Officiators to convert their Umbli lands into Sarkari may be granted,

(3) Whether the request of the alienee of an Umbli land to allow him to build on it, may be granted.

since disposed of vide G.O. No 7315-P.F. 75-98 dated 15-4-'99.

Rule XXXVI which has the force of law, until it is Cancelled must be Enforced - ~~so also the facts of the case the above stage when Cancelled~~

Please see on this subject my remarks in para 6 of my memo of 4 Jns 94 adopting the principle I wd treat as "relinquishments" all ~~alienations~~ Voluntary alienation, Such as by Sale gift &c (when both alienor &

The Revenue Councillor has expressed the opinion that all Shembhog and Patell Inams by whomsoever held should be enfranchised and regarded as private property, and in the cases relating to the Umbli lands of Haranigatta and Chik Hejjajji he has proposed the issue of a general order to the effect that

(1) all Service Inams bearing full assessment may be converted into Ryotwari & Pattas issued, or if the Inamdars prefer, the full assessment be treated as quit rent, and Inam title deeds issued as Personal Inams.

(2) Service Inams bearing Jodi be enfranchised on ½ or ⅝ assessment - i.e. to the existing Jodi, ½ or ⅝ of the difference between the full assessment and the existing Jodi be added and the land treated as Personal Inam.

The Judicial Councillor in expressing his concurrence has observed that in one or two cases that came up before ~~him~~ the Chief Court it was held that lands fully assessed could not be regarded as Inams and could not claim exemption from proceedings of Civil Courts.

Devaraj's Note
"From the Chief Court"
was wrong.

whenever points Concerned
& and Consent of the
alienator when
is Complainant as to
proceedings of Civil
Rev. authorities.
Even in the case of
the Consent of the
Alienor was not
always sought of all
Hukdars entitled to
~~occupation~~ of the land
have Consented

I have however noted
particulars with in the
matter & if the Rev
Councillor proposes he
Can adopt the procedure
I propose in para 6 of
Memo of 4 July 94 in
all cases —
25.11.94

Secretary to Govt
Rev Dept
21/11/95

Petn No 177 of 1891-92

Petr Ananthappa & Chikkegowda

At the hearing of this appln for review, the Revenue Commissioner ordered —

(1) That the original draft of the order sought to be reviewed — No 85-54-61 — Cir 170 dated 21st October 1890 — should be obtained and put up

(2) That it should be explained why this case alone was posted for hearing while there were others of the same kind —

(1) — The draft of the order is not forthcoming. It was missed in April 1892 when the file had to be submitted to the Commissioner for orders on the Review Applns and the Record Keeper stated then it was not received with the proceedings. It is not to be found with the vernacular file. As the 2nd Commissioner's letter of 4th Oct 1890 is stated to have been submitted to the Govt mail, it is likely the order sought was issued in accordance

with the Councillor's orders -
There is only the Kan copy
initialled by the Chief Secretary.

(2). A Memorandum was submitted
by me ~~on 1894~~ last year showing
what petitions and references
relating to Shambhog Gamboli
lands were pending disposal
and the questions requiring
consideration therein. The
Diwan referred the papers
to the Honble Mr. Chentsalkar
Pantulu with his remarks on
the Memo & inviting attention
to his Memorandum (printed)
dated 4th July 1894. The Honble
Mr. Chentsalkar agreed with
the views expressed in para 6
of that memorandum, and
passed orders on 21-1-95
on all the references except
the Petition of Anantappa
now under consideration
as they required no hearing -
From the orders on the other references
he seems to have intended to
modify the order of 21st Oct. 1890
Supra - to be revised, but as
this could not be done without
notice to the Counterpet - the
Shambhog, he ordered the fresh
Petition to be posted for hearing
the

8

The drafts prepared in accordance with the Resolve Mr Crewbal Rao's orders on the other references are herewith submitted. They were not issued as the 1st Councillor ordered they should be submitted to the Dewan for approval. They were accordingly subd. to the Dewan on 30-3-95, when the Dewan recorded the following order on a copy of his memorandum of 14 July 1894:— "Please show this to 2d Councillor and the cases remaining. I would like to discuss the subject with him by and bye."

× para 6 of the memorandum

The papers appear to have been subd to the Rev. Councillor by Mr Jagaroomalagia, but sent back to Office for submission with current papers.

As the file had been broken up & my memorandum & the papers attached thereto were missing, there was delay in the submission of this — The papers have been put together, & are subd with a copy of the Last Laws & Rules in force on 25 March 1881, at page 16 of which the Potail Rules are mentioned.

The papers subd herewith are

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are :—

(1) Office note of 1894 with its appendices.

(2) Dewan's Memorandum of 4 July 1894, with the warrants order of 30 March 1895.

(3) Cotage Rules.

(4) List of Acts & Rules in force on 25-3-81.

(5) File relating to Review Petition of Anantappa requiring orders

(6) File containing the other references requiring orders referred to in the above Office note.

(7) File containing Precedents referred to in the Office note.

(8) File No 350 of 1892-93 relating to the Hon'ble the Chief Law Secretary's Memorandum of 7th June 1893 referred to in the Office note

Orders have to be passed on (5) and (6) after discussion with the Dewan.

Anantappa's review appl[n] was finally rejected in 1899. The file is on the Records 10/9/12

A brief note of precedents in this Office, so far as they can be gathered, is put up. (appendix II).

The latest order, viz: 11968-76 / RT 244-92 dated 9-1-93, is in accordance with the law now in force. (Rule XXXVI of the Potaji Rules of 27 Oct 1874, which are included in the Schedule of Laws in force in Mysore appended to the Treaty).

In a printed note (appx: III) dated 7 June 1893 regarding the employment and remuneration of Patels and Shanbhogs, the Revenue Councillor has made the following, among other, suggestions:

(10) That Service Inam lands fully assessed may be treated as Patta lands and Pattas issued.

(11) That Service Inam lands partially fully assessed may be enfranchised on the existing quit rents, and treated as personal in future.

Extracts from opinions submitted by Officers consulted with reference to these suggestions are appended. (appx: IV).

BR

App: I.

A brief note of the references pending orders.

Appeal of Haranagatta Shanbhog Seshia.

Civil Court Side

The fact that the land is freely assessed does not alter the nature of the tenure. The sale of such land by the Civil Courts was irregular & should be set aside & the land restored to the original holder.

Land has been resumed otherwise in favour of the heirs of the

After Potagi Settlement in 1885-86 full assessment was recovered on the Inam land of the Haranagatta Shanbhog, but the land continued to be shown in the accounts as Jodi. In execution of a decree against the uncles of Petitioner Seshia, who is the officiator, the land was sold by the Shemoga Munsiff's Court in March 1888. The officiator did not know about the sale and did not oppose it. He afterwards complained to the Deputy Commissioner, but that officer declined to interfere as the

(1) 2/10/93

the land has been fully assessed. The Petitioner has appealed to Government.

The Service Inam lands of the Shanbhog of Chik Hejjaji were sold by the Revenue authorities in May 1890 in satisfaction of arrears of revenue due by Shanbhog. Before confirmation of sale the Shanbhog tendered the arrears, but the Deputy Commissioner refused to receive it and confirmed sale on the ground that the name of Inam given to the lands was a misnomer. On appeal Government held in Proceedings No. 8554-61 / Cir 170 dated 21st October 1890 that the sale of the service Inam for arrears of revenue was irregular and cancelled

Review Petition of Ara-hiah, Purchaser at Rev-sale, of Shanbhog Inam lands of Chik Hejjaji

This case has since been disposed of - vide G.O - Dis- 7315 - dated 15-4-98 in 75-98

No order necessary

the sale. The purchaser has applied for a review of the order. He urges that the Section of the Land Revenue Rules referred to therein was not law on the date of sale and refers to practice and precedents.

Shemoga Dy: Comm's reference asking for permission to sell Hochankatte Patel Umbli land for arrears of revenue.

Inquire of the arrears are still outstanding - If so one permission to the Umbli lands being forfeited & sold as Ordinary Kandayam lands liable to pay full assessment.

Prayer of certain Patels for their Umbli lands being treated as Sirkar lands.

Grant bearing no assessment does not alter character.

The Patel of Hochankatte Shikarpur Taluk, has to pay arrears of revenue since Vikriti - all his property movable and immovable (except the Umbli lands) have been sold. Permission is sought to sell the Umbli lands to recover the balance due.

The Jodi on the Patel Umbli lands of Mallapur and Sydarkallahalli in the Shemoga District is more than the full Survey assessment, and that of Chikmagalur equal

equal to the assessment. These Patels pray that the lands be treated as Sirkar so that they may have the liberty of alienating them. In a similar Case arising in 1888, the then Deputy Commissioner granted the prayer but the correctness of the order is doubted and orders are solicited.

Shemoga Dy: Comm's Jrs. 985/943 dated 17-1-93.

14

Service land

Of good Character may be allowed to be alienated on Tharah as unalienated land but take the direction of Inspector General regarding land where bear a good higher than the assessment

× Call for the proceedings of the Case.

The Service Inam of the Shanbhog of Pura, Hassan District, went at a partition in 1855-56 to the share of a Sissedar of the office, and the descendants of the Sissedar sold it as they were paying full survey assessment on it. Purchaser asks for Patta being made out in his name. Shanbhog and

Application by purchaser for a private sale for Patta in his name.

Alienation

Alienation
Cannot be
recognized &
must be refused

and Hissedars don't object.

Deputy Commissioner asks for orders.

Application of aliener for permission to build on Service Inam land -

The donee of Shanbhag Service Inam land close to Chikballapur Town, who says he got it prior to the Chief Commissioner's Notification of 1835 and has been paying full assessment for it, applied for permission to build on it. The Deputy Commissioner refused to grant permission on the ground that the land was Service Inam. The man has appealed.

There are two questions in this -

1. whether that land is Service Inam land the fact should be ascertained from the D/C & Supdt of Survey if it is Service Inam it cannot be interfered with & the alienee may pay the full assessment

2. Permission to build should be obtained from the D/C under the Rule even when land is not Service Inam.

Yours obedt
Hanumappa

Appx: II.

A brief note of Precedents in this Office.

Patel Umbli lands of Hire Chowki, Sorab Taluk.

Pro. no. 4753/P.146 dated 24.11.85
and no. 10124/P.788-92 dated 14.1.93.

The Civil Courts held that they were not umbli lands and directed partition. The Officiator Patel complained. The Dy. Commr. in reporting the case to Govt. stated that the lands were Umbli lands for which Patel was paying Jodi, and with reference to Circular No. 55 dated 23-6-69, General circular no. 5 dated 22.10.72 & to para XXVIII of Patkha Potigi Rules of 27 October 1874, he solicited orders whether the lands were to be still considered part and parcel of the emoluments of the Patel. The Patel was getting the Patkha Potigi.

Govt held that the decision of the civil court was not binding on it and that in the case in question it would be sufficient fully to assess the Umbli lands which had passed out of Officiator Patels' possession and credit the

jave to Govt. as the Patel has been fully remunerated by the Potigi.

Chik Heggaji Shambog Umbli lands, Doddballapur, Taluk.

Pro. No. 8554-61 / Cir. 170 dated 21-10-90.

These were sold in satisfaction of arrears of revenue due by Shanbog: The amount tendered by Shanbogue before confirmation of sale was not received and the sale was confirmed. On appeal the Govt. passed the following order:-

"The Deputy Commissioner's attention is drawn to para 3 of section XXXVI of the Rules framed under the Land Revenue Code, and he is informed that the sale of Service Inam for arears of revenue is irregular and that it is therefore cancelled. The defaulter's other property should be proceeded against for the arears due, the sale proceeds of the Inam being refunded to the purchaser."

The Purchaser has filed an appn for review

Patel Umbli lands of Dasarhatti, Nonnale Taluk.

No. 4787 / P. 12 dated 23-7-91

On Settlement of Pakka Potigi, these were left with the new occupant Madaiya on increased Jodi. Subsequently his widow and brother resigned them and they were entered as Govt. waste. One Hanumia, a Paldar Patel, having applied for them for full assessment; they were granted

18
to him in preference to another applicant - on the ground that he had a share in the limbli and that the Razinama should not have been accepted without his knowledge. Subsequently Hanumia transferred the land to one Gopalappa, but on the complaint of Hanumia's nephew Timmappa who urged that the lands were service Inam, the Dy. Commissioner refused to sanction the transfer. On appeal the Govt. gave the following decision.

"... With whomsoever the
"possession might be, it is
"clear that the order of the
"Dy. Commissioner declining
"to accept the transfer was
"by the 2d Respondent to
"appellant is wrong. Section
"XXVII of the Police rules
"of 1874 now in force declares
"that any hereditary Officer
"in possession of Patels land
"is compelled to relinquish
"it, and that when it is
"relinquished, it should be
"entered in the accounts
"as Govt. land, and
"Section XXVIII lays down
"that the Official land
"in possession of Shanars
"forms no part of the

remuneration

Hanumia

Gopalappa

remuneration of the
Officiator or person who
does the duties of the Patel.
This being so, the entry
of the land as Sirkari
in the accounts after it
was relinquished by the
former holder of the Inam
was perfectly correct, and
it cannot be said that
it was service Inam when
it was transferred to the
appellant. The order of
the Dy. Commr refusing
to recognise the transfer
of the land by the 2d
Respondent to the appellant
was therefore wrong and
it is hereby cancelled. The
land should be registered
in the name of the appellant
If the 1st Respondent has
any claim, he must
establish it in Civil Courts."

XT

Jimmiah presented a
memorial to the Dewan where-
upon His Excellency passed
the following order:-

"Petitioner is referred to the
decision passed in his case
in Progs. no. 4787 dated
18 July 1891, which is final
and no grounds whatever
exist for revising it. No
further application from
Petitioner on the same
subject will be considered."

24.2.92.

2/-

Patel Umbli Lands
of Muddenhalli
and Bussenhalli
Chennagiri Taluk.

No. 10989/P46 dated 22.12.91.

20

On Conviction of Halesa
Patel, the Office was given
to his divided cousin Nama
Bhim Bhatt. The latter files
a suit to recover Umbli
Lands in the possession of
the late Patel and his sons
The Govt held that the
possession of the latter need
not be disturbed. They observe:

" ... that although the
" Potigi rules did not con-
" template the enfranchise-
" ment of Service Inams,
" inasmuch as they are
" declared inalienable,
" still the tendency of the
" rules seems to be to regard
" the Official Land subjected
" to additional Jodi or
" full assessment, as no
" part of the Official
" emolument. Vide
" Rule XXVIII. all Shan-
" bogue and Patels Inams
" subjected to full assess-
" ment or on which a
" Jodi has been imposed
" under the Potigi Rules,
" can only be regarded
" as Inams resumed
" by Government and
" allowed to remain with
" the holders to be enjoyed
" without the power of
" alienating them till
" the next revision of
" assessments takes place
" (Vide Rule XV). In this
" view of the case, the

appellants

" Appellant has no right
" to claim the Inam land
" in addition to the
" Potigi allowance he gets
" under the rules. The Inam
" in question had all along
" been in the enjoyment
" of the family of the 1st
" Respondent, and the
" appellant had only a
" temporary enjoyment of
" it between 1868 & 1877,
" when he had not the Potigi
" allowance. Under these
" circumstances, the Govt.
" do not think that there
" is any necessity for
" disturbing the possession
" of the 1st Respondent.
" The appeal is dismissed."

92

Patel Umbli La
of Kappankalle
Shikarpur Dist

No. 9945 dated 2
P.7.232-92

The Hakdar Patel was dismissed and a stranger appointed and put in possession of the Umbli lands. After settlement of Pakka Potigi the former prayed that the Inam lands might be left in his possession and the assessment thereof made payable to the Office holder.

Govt. observed that in future cases it might be desirable to cancel the Inam tenure and leave the dismissed man in possession of the Umbli lands.

lands on full assessment but that in the present case it was inexpedient to oust the Officiator out of the lands in his possession for over 20 years as to do so would be more unjust than the injustice now 20 years old complained of by Petitioner -

A portion of the Umbli lands in the possession of a tiller was attached in execution of a money decree obtained against him. Upon a reference from the Dy. Comm. the Govt. instructed him to oppose the attachment on the following grounds: -

1. That they are Service Inam (Patel Umbli) lands that as such, under Rule XLIII para 5 of the Rules framed under the Land Revenue Code as well as Rule XXXVI of the Police Rules issued with the sanction of the Govt. of India under the late Chief Commissioner's Notification No. 219, dated 27th October 1874, they are

Patel Umbli Lands
Hariye, Shimoga
Taluk.

No. 4978-88 dated
20.6.92 circulated
with No. 11968-76 dated 9.1.93.
R.T. 244-92

" appellant has no right
" to claim the Inam land
" in addition to the
" Potigi allowance he gets
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Patel Umbli lands of Kappankatti Shikarpur Taluk.

No. 9945 dated 24-12-92
P.7.232-92

Patel Umbli' Lands
of Sarige, Shimoga
Taluk.

Pro. No. 4978-88 dated
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under the Land
Revenue Code as
well as Rule XXXVI
of the Potigi Rules
issued with the
sanction of the Govt.
of India under the
late Chief Commissioner's Notification
No. 219, dated 27th
October 1874, they are

not

not liable to attachment and sale in satisfaction of Judicial Decrees.

(2) That the lands in question do not lose their character as Service Inam lands, because their full assessment is recovered under the arrangement provisionally prescribed in the orders of Govt. contained in Pro. No. 950-60, dated 16th September 1885.

NOTE.

The question immediately before us is, what are we to do with the Patels of those villages which have been amalgamated with other villages by the Survey Department? I thought that the simple remedy was to allow each Patel to keep the charge of his village and to divide the Potagi allowed for the *whole* village amalgamated with reference to the revenue of each village at the time of the amalgamation, which could be easily ascertained. The objection to this suggestion is, that the Potagi amount for each village would be too small to be a sufficient inducement for efficient service. It is true that the emolument would not be sufficient, but the office of Patel is coveted, not so much on account of the remuneration, as it is on account of the honor and prestige it gives and I therefore think that we need attach much importance to this point.

3. The other remedy suggested by the Dewan, is to allow the office to be held by rotation by the different claimants. But the system of rotation is attended with many difficulties, and may not give satisfaction to the parties concerned. It would not be conducive to the efficiency of business, if Patels are allowed to change too often, and we will have to make some such rule as that no Patel shall hold office for less than 5 years. If this rule be adopted, men may not get their turn for one or two generations. For instance, if 4 villages with a Revenue of Rs. 1,600, 800, 600 and 400 are amalgamated into one, and if the Patels of the several villages are to have the office by rotation, the last man will have to hold it for 5 years, the next man for $7\frac{1}{2}$ years, the 3rd man for 10 years, and the 4th man for 20 years. So that it will be 42 years before the last man gets his turn of 5 years again. This is too long a time for any rotation to be appreciated.

I think that so far as Patels are concerned it is much better to allow the Patel of each village to have charge of his village, whatever be his remuneration.

The next question to be considered is, what are we to do with the Shanbhogs of similar villages. The system of accounts we keep does not admit of having a separate Shanbhog for each village amalgamated. We must have only one Shanbhog. I would register all the 4 Shanbhogs as Hakdars,

defining the *Hissa* of each with reference to the Revenue, appoint the most efficient of the 4 as the officiator, and make the officiator pay $\frac{1}{4}$th of the Potagi due to the share of each non-working man. Practically, he will be the Shanbhog of his own village, and a Gumasta for the other three receiving $\frac{3}{4}$ths of their income for his services.

The question of the amalgamated villages being thus disposed of, there is the question of the rights of the several sharers in one and the same village. Supposing there was originally one Shanbhog who died leaving 4 sons, every one of whom has issue, who is to be the officiator? In ancient days, the practice was to divide the land emolument between all the sharers according to their shares, any one man selected by Government as officiator doing duties, enjoying all other perquisites of the office. But, now the land is fully assessed, and there is no further emolument than the Potagi allowance we pay. We have therefore either to recognise the eldest member of the eldest branch as entitled to officiate, or allow the member of each branch to officiate in turns.—I would do neither.—The Government should have the liberty to select any one of the 4 branches to be the officiator with reference to his qualifications for the work, and when all are equally qualified, I would give preference to the eldest member of the eldest branch.

If the above proposals are sanctioned, no suit will lie for ejecting a man in office, so long as he is a Hakdar, but suits will only lie for the registration of his name as a Hakdar so that he may be eligible for appointment when a vacancy occurs. The present practice of Government appointing one Hakdar, and another Hakdar bringing a suit to oust him from office is inconsistent with the right of Government to chose the most competent man among the Hakdars as the officiator.

If these rules are clearly laid down, much of our work will be reduced, and every Hakdar will understand that his Hack only renders him eligible to the office, but does not necessarily entitle him to it.

Along with these rules we may also lay down:—

(1) That when a man is dismissed on any ground other than that of mere inefficiency, no member of his undivided family should be appointed to the post during the lifetime of the dismissed man.

(2) That the whole family should not be debarred from the Hack without the special orders of Government.

(3) That females should not be appointed when a male male Hakdar competent to do work is available.

(4) That when a Hakdar is appointed, the appointment shall be for life unless the appointment has been specially made for a definite period.

(5) That when a non-Hakdar is appointed, he shall be removable at the pleasure of Government unless he has been appointed for a definite period.

(6) That it is open to the Deputy Commissioner to allow rotation in special cases.

(7) That Patels and Shanbhogs are liable to be removed for inefficiency as well as misconduct.

(8) That it shall be competent for Deputy Commissioners to allow a small maintenance to the widows of Hakdars or for minors, not exceeding $\frac{1}{4}$th of the Potagi allowance.

(9) That Gumastas cannot be appointed by Hakdars without the sanction of the Deputy Commissioners, and that Gumastas once appointed shall not be removed without their sanction.

(10) That Service Inam lands fully assessed may be treated as Patta lands and Pattas issued.

(11) That Service Inam lands partially fully assessed may be enfranchised on the existing quit rents, and treated as personal in future.

Why So

Most of the above rules are now practically in force, and if they are definitively settled, much of our work is sure to be reduced. I have no objection to my proposals being modified, but the issue of some definite rules is absolutely necessary.

(Signed) P. CHENTSAL RAO.

Dated 7th June 1893.

M.-G. C. P., Bangalore,—15-7-93.—50.

App: IV

Opinions of Officers consulted.

I. Colonel Grant's opinion.—

(a) Extract from his letter dated 31st July 1893:—

× × × ×

Proposed Rules 10 and 11 are opposed to the Inam Rules sanctioned by the Government of India and also to the Potgi Rules. The Bombay Act framed to meet the Potgi Rules which are very nearly the same as our own, forbids sale mortgage alienation or assignment of Watan (which of course includes land) to any person not a Watandar of the same Watan A Register of all lands and allowances, in consideration of which liability to perform service exists, has to be kept.

Mr. Chentsal Row is in error in stating that all the land is fully

assessed

assessed; this is not the case when the profit on service land is more than sufficient to provide the salary of the officiator.

× × × ×

(b) Extract from his letter of 3rd April/94.

× × × ×

In proposing to lay down certain Rules as in points 1 to 11, as per note, the Honorable Chentsal Row deals with a much more important question. In my opinion it is absolutely necessary, in framing any Rules, to abide strictly by the Polgi Rules which have duly received the sanction of the Government of India. The payment of his remuneration to the officiator wholly in cash (Rule XXVIII) and the inalienability (Rule XXXVI) of Service lands are leading features of the Rules and seem to have been lost sight of in points 10 and 11 of the note. The Polgi Rules, while affirming

certain

certain principles as above, deal chiefly with the mode of bringing to account the old existing emoluments and calculating the new remuneration and payment of the same. They are deficient in any Rules, or instructions, for the determination and registration of representative Hakdars, the duties of these officers, periods of service, appointment of deputies and so on. These points must now be provided for either by a distinct set of Rules or by adopting an Hereditary officer's Regulation for Mysore. The latter procedure is in my opinion the better.

II. Mr Rangaswamy Iyengar's opinion.

Extract from his O.O. of 29th Sept 93.-

× × × ×

Rules X and XI.- The lands have a marketable value in addition to the assessment imposed thereon at the time of Survey. And as in the case of hereditary servants, even such Inams are prized much more than allowances

in

in cash, the proposed change seems to be inadvisable. It may be that these Inamdar lands are often in the enjoyment of the Hissedars and are not invariably transferred with the appointments. But this is no reason why the Government should not reserve the right of resumption to itself and enforce it when circumstances call for it.

III. Mr Ricketts opinion.

(a) Extract from para 4 of his memorandum dated 19th March 1894.—

4. I may add that the present scale of Polgi is not, in my opinion, sufficient for the duties required of the Patels and Shanbhogs. I would suggest that it be supplemented to a certain extent by old Service Inam lands free of assessment or on light assessment as before.

(b) Extract from para 6 of —do—.

6. I am of opinion that the proposed rules in clauses (1) to (11) in the Honorable Mr. Chentsal Rao's note may be introduced at once.

IV. Mr. Madiah's opinion.— Extract from his memo d/ 21. 8. 93. —

Para VIII Clauses (10 and 11). — The provisions contained in these clauses are absolutely necessary as much difficulty is experienced for want of the same in the recovery of Government dues.

V. Messrs Sivaraya, Venkatavaradarajan & Abdul Rahman have expressed concurrence with the proposals. Mr. C. Srinivasaraga has made no observations regarding them. —

The replies of Messrs V. P. Madhava Rao, Shujaat Ali Khan and Sparkes have not yet been received.

The following Extract from Mr. Madhava Rao's report dated May 1889 in the case

relating to Kappankalli Patel Emblis lands seems to be pertinent —

"The Rules do not apparently countenance the dispossession of Emblis lands. In fact the lands are no longer Emblis, although borne as such in the accounts - They are virtually enfranchised lands (Rule XXVIII) although under Rule XXVI the power of alienation is restricted (see Proceedings of the Chief Comm^r No 4266/38 & 30-8-78).

The land in the majority of cases bears nearly the full Survey assessment, and the Jodi is very inappreciable. The Jodi would appear to have been allowed in consideration of the long enjoyment of the land by the Emblidar family (Para 6 of the Proceedings of the Dewan dated 16 Sept^r 1885). This Jodi, however, is liable to be revised at every Settlement until, perhaps, it has disappeared altogether (Rule XV). The Madras practice is more logical. When the Emblis land has been charged with Jodi for purposes of the Potagi Fund, it becomes the holders' private property and he has full power to deal with it as such, as will be seen from the extract given in the margin (⊗) from page 159 Chapter "Land Revenue Establishments", para 191 "Madras Manual of the Administration Vol I" This was also the view of the Chief form

× "I may be allowed to remark in connection with this question that it will make the rule clearer if the prohibition against alienation were brought into Rule No XXVIII. thus:- "But lands & village offices held on condition of Service to Govt are declared to be inalienable by sale, mortgage or Gift or otherwise, & (and they) shall not be liable to attachment or other process in satisfaction of Judicial decrees."
The last sentence is put in to remove the misconception that now prevails regarding the power of the Civil Courts to interfere with Emblis lands. The provision has been omitted in the Potagi Rules either intentionally or through oversight although it is to be found in the general Circular No 5 and in the Rules published under Notification dated the 28th June 1869."

⊗ "The terms will be that Govt will make him proprietor of the land, which will thence forward have no further connection with the office, and be an alienable piece of property belonging to the individual, while the

manner when he sanctioned the Scheme of land Inams as remuneration for hereditary Officers (See para 10 of his letter at page 30, Dewan's Proceedings dated 16th Sept. 18[illegible] also Rule XI at page 34 of the above proceedings. But the other view ultimately prevailed (See last sentence of para 2 of Govt of India letter No 144 dated 10th July 1874 page 59 of the abovementioned proceedings).

Govt will therefore and tax the land with land revenue, amounting however not to the full amount, but only 5/8ths of the amount. The special terms are granted in consideration of the long period during which these lands have been looked on by the people as quasi private property

MEMORANDUM.

Rules regarding the remuneration of Patels and Shanbhogs.

1. The settlement of the Pateli and Shanbhog Service Inam lands effected under the Notification of 27th October 1874 is not an "enfranchisement" of the same. Such an "enfranchisement" was proposed by Colonel Meade (*vide* para 15 *et seq.* of his letter to Government of India, dated 11th April 1874), but was finally abandoned (*vide* para 2 of Government of India letter, dated 10th July 1874).

2. The settlement effected is as follows:—

1st. Full survey assessment is fixed for Service lands (in the possession of the Hakdar, one or more) and any existing quit-rent already paid upon them is deducted therefrom and the balance is regarded as "Profit;"

2ndly. "Profit" is subjected to a further payment (or additional taxation) to reimburse the Treasury for the "Salary" of the officiator; and

3rdly. If the "Profit" is *more* than the payment on account of "Salary," one-half of the difference (or 'Net profit') is charged on the lands by way of an additional Jodi.

Thus the Service lands are subjected to payments of the original Quit-rent, if any, of the officiator's 'Salary' in full within the limit of the 'Profit,' and of one-half the 'Net profit,' *if any.*

3. If the above interpretation is correct, Rule XXIII of the Notification of the 27th October 1874 is wrongly worded, for it prescribes the levy of an additional jodi equal to half "the Profit" and not half the "Net profit" as above defined.

I would like to have Colonel Grant's explanation on the above point and a description of the manner in which he has been carrying out Rule XXIII.

4. Again in Rule XV it is said that the amount of "Quit-rent" fixed on the holding of each share-holder is fixed for the term of settlement but that the amount of the officiator's Salary will be revised once after ten years. This rule was adopted at the suggestion of the Government of India and against the views of the Survey Commissioner. (*Vide* Chief Commissioner's letter to Government of India, dated 27th October

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6½/38

Bangalore
7th September 1898.

My dear Sir,

Your note of yesterday - I send enclosed Copy of Order in Mis: S. A. 1 of 1891 - the only case I have been able to find -

Yrs. Sincerely
A Mayatt Rau Bhuj
V. R. Pragnaraja Esqr.

1874, para 3, and Survey Commissioner's letter, dated 12th August 1874, para 2.)

What does the Survey Superintendent understand by "Quit-rent" in this rule? Is it any original "Quit-rent" paid by the Service Inam? If so, it is not liable to revision. On a revision, the full Survey assessment and therefore the 'profit' may be more, but the original quit-rent is a fixed sum. "Quit-rent" in Rule XV can reasonably mean only the sum total of the payments described in para 2 above. If this is accepted, any revision of remuneration after ten years will subject the Treasury to a loss, for we shall merely increase the salaries paid from the Treasury and not levy the equivalent of such increase from the Service Inam lands. Has any revision of salaries been effected without increasing the total payments levied from Service Inam lands? In what Taluks and with what loss to the Treasury in each Taluk on account of unlevied *increase*, justly leviable from Service Inam lands? I shall feel obliged for any information Colonel Grant can give me upon these points.

5. Rule XXVII is not very clear. Of course "Hereditary Officer" in this rule includes a sharer and officiator. What is the "Jodi tax" referred to in this rule? Has it reference to Column 3 or Column 8 of Rule XXV? It is evident these rules which have the force of law should be carefully revised with proper definitions of terms used.

6. Rule XXXVI prohibits strict enforcement of the Circular Notification of 11th September 1835. The date of this Notification is elsewhere stated to be 9th September 1835. *Vide* page 86 of the Revenue Manual. This should be verified.

This Notification among other matters prohibited alienation of Service Inams. What is the object of such prohibition when under Rule XXVII the hereditary officer can relinquish it, and when under Rule XXVIII, the Service land is to form no part of the Officiator's "Salary."

The prohibition of alienation in the general terms of Rule XXXVI would have the effect of rendering every 'alienation' invalid. Under our present system, there is no object whatever in providing for this result. It will be sufficient if the Government treated every "alienation" in the manner provided for "relinquishment" in Rule XXVII. We do not want to deprive the alienee of the alienated land, though he can be deprived of it under a strict enforcement of the Rule. We only want to charge full assessment on

Please show this to 2nd Commissioner & the Circuit Commissioner - I will remark on the two questions subject with these

30/3/95

it in the hands of the alienee, making corresponding deductions in the total payments leviable on the Service Inam.

This is what Government has done in some recent cases and it should continue to be done, as it is perfectly legal for Government not to enforce the full penalty of actual resumption of land by eviction of the alienee. But the rule itself should be modified.

7. Rule XXXVI is general in directing the enforcement of the Notification of 11th September 1835 and therefore it has the effect of laying down that—

(*a*) the Village offices are, as a general rule, to be considered hereditary and to be enjoyed by father and son in succession ;

(*b*) if in any case, the hereditary claimant to the office is found unfit or unworthy from incapacity or bad character, his claim may be rejected, another person properly qualified being appointed, preference being given to a near relative of the Mirasdar ;

(*c*) where the office is held by two or more Co-parceners or Sharers, they shall all jointly and individually be responsible for the due and honest discharge of its duties, on the penalty of the forfeiture of the right on the proved misconduct of any one of the joint partners.

When revising the present rules, some express provisions to the above effect should be made in it. Such provisions existed in Colonel Prescott's first Draft in express terms. The final Draft adopted enacts the same provisions by the unsatisfactory means of Rule XXXVI.

8. I have very carefully considered the larger question of the substitution of 'land' for 'cash' emoluments contemplated in Proceedings dated 16th September 1885 and have come to the conclusion that such a change is undesirable.

K. SHESHADRI IYER.

4th July 1894.

P. S.—For the calculation of the Gross Revenue for the purpose of these rules, the Rule approved in Chief Commissioner's Proceedings, dated 21st January 1881, should be entered in lieu of Rules XVI and XVII, in the revision now proposed.

In the Chief Court of Mysore at Bangalore
Wednesday, the 16th day of September 1891

Present

T. R. A. Thumboo Chetty Esquire, Chief Judge
and
P. N. Krishna Murti Esquire, Judge.

Mis: Second Appeal No: 1 of 1891.

Rudriah - Appellant - (Petitioner)

~~Vs~~

Kesavanya - Respondent - (Counter Petitioner)

Miscellaneous second appeal against the Order of the District Judge of Nagar in Mis: appeal No: 15 of 1890, reversing the Order of the Munsiff of Shimoga in Mis: Case No: 138 of 1890.

This Mis-cellaneous second appeal Coming on for hearing on Monday the 24th day of August 1891, the Court pro-nounced the following.

Order

The objection to the sale of the lands which had been attached is based

based on the allegation that they are Patel's Service Inam lands and as such are not liable to be attached and sold in execution of decrees of Civil Courts.

No rule of law, according such exemption to such lands, was referred to by the appellant's advocate. The authority relied upon by the Munsiff does not seem to be applicable for the reason that the lands are not in the possession and enjoyment of the officiator. If they are regarded as emoluments attached to the office of Patel, they should not have been permitted to be separated from the Patel. That a person who is not the Patel enjoys the lands is prima facie evidence of their having been already alienated, and in the hands of the alienee, the lands lose the claim to be regarded as inseparable emoluments of the Patel.

In the Khalevar Patrike

produced

produced, there is an alteration in the entry under Column 3 against Survey No 3, and No 171 is described as Jodi Inam - Letters Ba and Vu in Kanarese have been inserted apparently signifying Patel Umbali, but the evidence derived from this document does not appear to be convincing or conclusive.

There is thus reasonable doubt regarding the character of the Inam. Being in the enjoyment of a person who is not the Patel, the land should be regarded as having been already alienated. The Officiator Patel, cannot complain that his emoluments have been alienated if lands not in his possession or enjoyment are sold. The contention that the Service land should not be sold has, for its object, the benefit which by the sale will be lost to the Officiator. In this instance, no such loss results to the officiator, Patel. No exemption of such land is made under Section 266 of the Civil Procedure Code, and

if

based on the allegation that they are Patel's Service Inam lands and as such are not liable to be attached and sold in execution of decrees of Civil Courts.

No rule of law, according such exemption to such lands, was referred to by the appellant's advocate. The authority relied upon by the Munsiff does not seem to be applicable for the reason that the lands are not in the possession and enjoyment of the officiator. If they are regarded as emoluments attached to the office of Patel, they should not have been permitted to be separated from the Patel. That a person who is not the Patel enjoys the lands is *prima facie* evidence of their having been already alienated, and in the hands of the alienee, the lands lose the claim to be regarded as inseparable emoluments of the Patel.

In the Khalevar Patrike

produced

if the profits are regarded as salary due to a hereditary officer, the circumstances of this case show that, on account of the existing alienation, the profits are not taken by the Patel. No Provision of the Pensions Act applies to this case. These lands had been attached by Government for arrears of revenue. Surely, the lands would not have been treated as being liable to attachment by Government if they had been Umbli lands. The Petitioner is not even the registered huckdar. There is no evidence that the present officiator, who receives the whole of the Potagi, is only a goomasta, except the uncorroborated testimony of Narasimhalu Naidu, who can only guess who the real huckdar is. Under the standing rules Shanbognes emoluments are not liable to be alienated by inheritance or partition or any cause See Rule ~~XXXVIII~~ of the Rules of 1874. In a similar case, the Bombay High Court have held that when the land has permanently lost its special dedication, it also loses

its

No. 43

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT,

189

Endorsement granted to Seshia bin Subbaiah Shanbague of Harmagatta, Shimoga Taluk,

in reply to his Petition Registered No. 406 dated 24 May 1891

appealing against the order of the Dy Commr declining to interfere with the sale of the Shanbog jemble land (No 142) held by the Munsiff's Court in Satisfaction of a decree against his uncles.

Petitioner is informed that

Your decline to interfere in the matter as the land has been fully assessed

Enclosure as returned (By order)

22/1895

Copy forwarded to the Dy Commr Shimoga returning the records received with his letter No 606/568 dated 6 Jun 1891

"By Order"

Chief Secretary.

M. G. C. P. Bangalore—6-3-94.—2000.

2/11

461

Urgent.

Submitted.

The Revenue Councillor, Eastern Divn. desires to know if the several queries by the Dewan Bahadur in the printed Note and memorandum dated 7th June 1893 and 4th July 1894 — respectively in the file below, have been answered and also if the Survey Supdt. has been addressed on the matter.

All the files (five in number) relating to Hubli lands are herewith put up.

C&R. 21/3/94

To Pet Branch 22/3/94

Rev Branch

I can answer the query as regards the memo of 7/6/93 but as regards the Secretary's memo of 4/7/94 & the correspondence connected therewith, the file has to be sent up for Govt's & Rev C^r & D^r. Please do so early

Pl 2-3-95

Submitted.

The Secretary's memo of 4.7.94 relates to the revision of Rules regarding the remuneration to Patels and C.S. Nos. The file (RD 688 of 94) linked with RD 244 of 92) on the subject was submitted to the Revenue On 16.1.99 with Survey Superintendent's letter No 380 of 6.12.98.

23/3

Peter Branch
23/3/95

Submitted

24.3.95

Submitted to Rev C^r & D^r

1) Permission of the Govt is sought for the 94 of Rule 2 the

46

Suppl of Rev Survey were called for on 14th Clients at Rao's mems d 7/6/93.

~~It left~~ The final result of these discussions was embodied in SO d 3/1/94 (* copy put up) which restricted itself to the disposal of the claims of patels of absorbed villages. No reason is given in the file itself as to why the other proposals in the mems d 7/6/93 were dropped but it has to be inferred that this was done because Col Grant was of opinion that only a Village Officers' Regulation can satisfactorily dispose of such large questions & deprecated the passing of circulars from time to time piecemeal

* printed copies are available exhausted

2) Hereunto the Dewan's memo dt 4/1/99, the pinnions of the Bd Comrs of Dts, the Dy Inspr Genl of Police & the Supdt of Police, New Jersey were called for and have been ~~called for~~ received. The 2nd Counsellor has also recorded his views & the file is said to have been sent to Dewan on 16/1/99.

24/3/99.

Submitted

The above note was seen by the Revenue Counsellor, Eastern Division.

Orders were not passed on Case No IV, the only other case belonging to the Eastern Division, as in the file below the Dewan Bahadur has ordered thereon that it was "under consideration."

C&R 25/3/99

Petn No. 1300 dated 1-2-99 is also put up.

Simpson.

48

Recd & Rev Cr & Dt

I venture to think that the Dewan's remark on Neelakanta's petition viz "under consideration" is of earlier date than his notes of 25/11/94 & on Mr B Ramaswami Iyengar's memo of 30/3/95 (on a printed copy of the Dewan's memo of 4/7/94)

Mr Bhimsal Rao agreed with the Dewan in his views recorded in note of 25/11/94 & according a draft on in Neelakanta's case was prepared on 22/1/95. bid-Asst Thumboo Chettiyar suggested that the drafts in this & other cases should be subd to Dewan for approval, these were accordingly subd & were returned by the Dewan

on 30/3/95 with the note above referred to (The Council has reconstituted between these 2 dates) The files were under the above order & 2 Councillors who returned them with his note of 27/6/95 on Ananta's file (the order in W.L. 4 under cover of the file, is not put up.)

It will then be seen that the Dewan ~~has~~ does not appear to have seen these files since 30/3/95 and is perhaps unaware of what has become of them. The revision of the Pooja Rules as contemplated in Dewan's memo of 4/7/94 is under consideration but as regards the question of the alienability of unoccupied lands, the Dewan has already recorded his views in his notes of 25/11/94 wherein he refers to Para 6 of his memo of 4/7/94

13/4/95.

Re in camp Impress
15/4/95

332

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Subd to Secy.

The appeal of Hanmaphatta Sedika is against the sale of the Shankaji Umbeli land in satisfaction of a civil court decree against his undivided share.

This appeal was heard by Hon P. Chentsal Rosand the present offg. Dewan on the 2nd June 1892 Hon. Chentsal Ras recorded an order on 22/1/195 rejecting the appeal. On this order being submitted to the present offg Dewan (the then 1st Asst Commr) for approval, he ordered that the issuing of the order might be deferred till the Dewan approved of the other orders on the general question. Since then, the order has been

in abeyance.

The files relating to all the cases, in the requiring orders to be issued seem to have been in circulation between the Dewan and the Councillors. They were submitted to the present 1st Comm^r on 10/9/00 and they have now been obtained back.

The Dewan in the file by Mr. B. Ramaswamy Iyer gives a clear history of all the above cases including the case of Veerraghatta Shetkar, the present petr.

Secy.

5/3/07.

Noted. Orders of the Dewan with reference to this enquiry dated 16/2/07 on Sessions Petition of the 12th Idem

17113

[illegible] 12/3/07

[illegible]

53

Sept 6 1st Councillor.

There are 7 cases in wh orders have to be passed In one of these refs have not been put up but Offs of the previous references may be called for from Govt

(2) In many of these cases, there are unpassed Drafts of 1895 prepar in accordance with the view that fully assessed Service Inams are alienable As however this view has been abandoned, the orders on these cases will have to be reversed 10/9/02

P.S Mr B Ramaswamier's note on these cases is also in the file

See orders on backs of these Cases 7/3/1902

× in the office note.

Note The 1st Councillor has passed orders on all the files marked I to VIII in R.O.C. in blue pencil. 11-9-02 CSR 7/3/02

3 Service Inam land, and in the Court Sale, the petitioner's uncle Isson purchased it for Rs: 20/- (land worth about 200 Rs) and disposed it of for Rs: 160/- subsequently.

4. The petitioner now prays therefore that the sale may be cancelled and land restored him.

D/ Comm'rs order

In the matter of his petition, requesting Cancellation of Sale of land S. No 142 in Havanagatti village, made by Civil Court towards the discharge of a Civil decree, Seshiah bin Soobbiah is informed that the Deputy Commissioner declines to ~~interfere~~ interfere with the Civil Court Sale, as the land sold by the Civil Court, bears full appearment.

10-3-91.

H. Venkatanarasiah

12/7/91.

2 Rs Stamps.

Ad. 26 R

4

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 401

dated 24th May/91 received at the

Dewan's Office from Seshiah bin

Soobbiah, Shanboque

& Haramagatta, Shimoga

JK

is forwarded, together with its one

enclosures, to the Deputy Comm^r

Shimoga Dist^t for submiss

of a report with proceedings

& a precis thereof

By Order,

Chief Secretary

BANGALORE,

15th/19 Sept^r 1891.

Drafted on

Councillor's order

Dy

AA

L A

5 of 90

2

To the same - No 8486 dated 28/10/91

P.29 No. 6611 dated 4/11/91

528

29/9/91

W. 601/568 En 2 records + enclosures

(4)

From,

The Deputy Commissioner
Shimoga District.

To,

The Chief Secretary to the
Dewan of Mysore
Bangalore.

Sir,

In returning the enclosures of your official memo No. 25 dated 15th September last, forwarding for report a Petition from Seshiah bin Subbiah, Shanbhogue of Harugatta, Shimoga Taluq, I have the honor to report that the Petitioner submitted a — Petition to this Office on the 30th June/90 stating that the Shanbhogue Tumbli land Survey No. 162, acres 6 - 36 assessed at

No 13, of which he is the Hukdar, has been sold in satisfaction of a Civil Court decree in case no 1106 of 88 of Hanumanthachari ~~Hos~~ 1 Shamanna 2 Ramanna uncles of the Petitioner, and one Gundappa purchased the same in the Court sale. Upon this, the Records in the Civil cases were X sent for and an order was issued to the Shimoga Taluq Amildar No 358/14-7-90 directing him to report whether the land in question was a Shanbhog Inam with a Jari and whether the Shanbhog who performs the duty opposed the court sale.

X O.S No 1106 of 1888 on the file of the Munsiff's Court No 76 of 1889

2. In reply the Amildar reported that the land in Question bears Survey No 142 assessed at Rs 13 of the Harinagatte Village and that full assessment is levied thereon ever since the Cotgi Settlement in Parthiva (1885) and the land is shewn

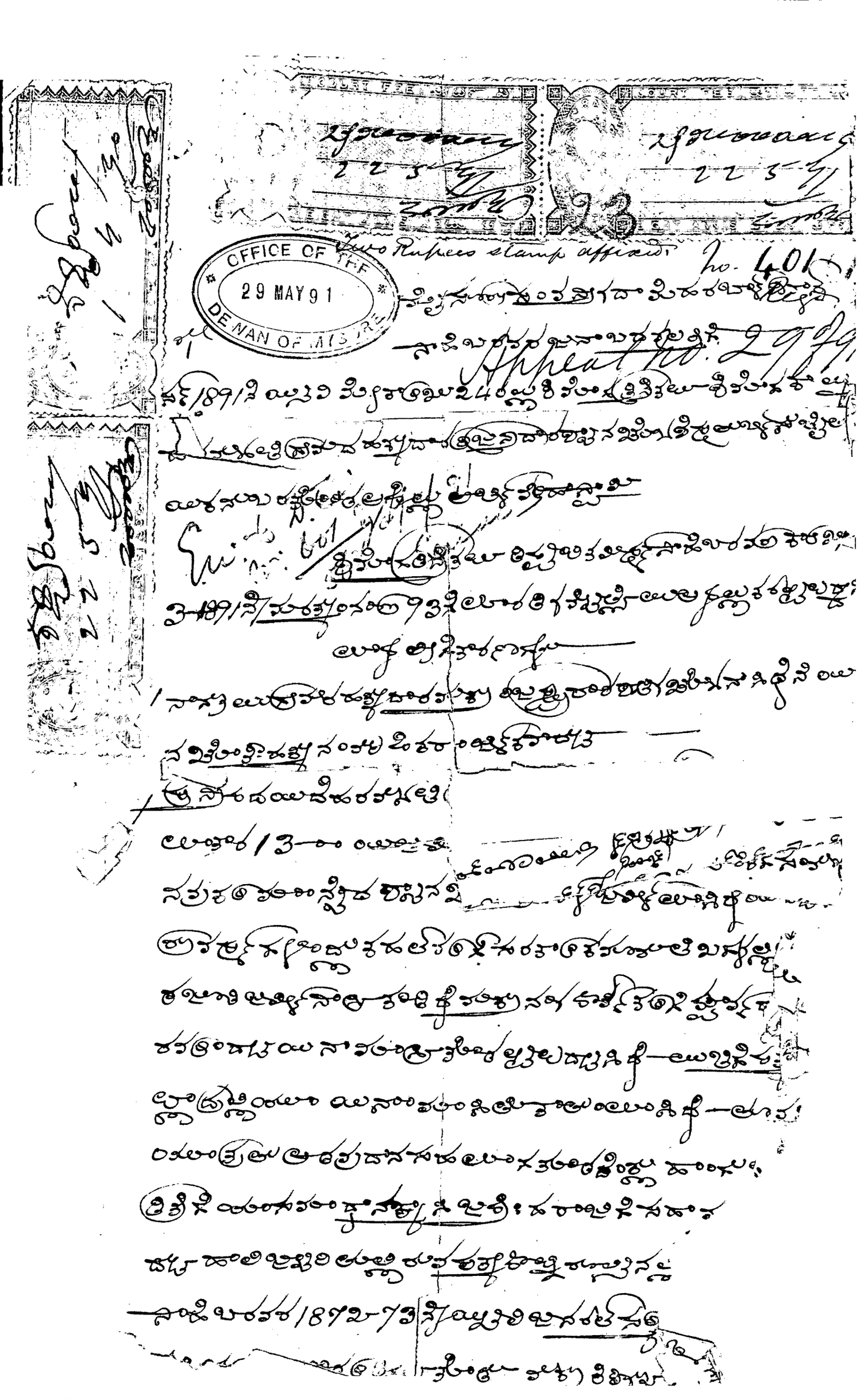
in the Accounts under "Jodi"
and that the Petitioner Shambhu
did not oppose the Court Sale
as he seemed to have not been
aware of the Sale.

3. Upon perusing all the
Records in the case, an endorse-
-ment has been given to the
Petitioner to the effect that
there were no grounds to interfere
in the matter, as the land
has been fully assessed

4. The two records in the
Civil cases referred to above,
are herewith sent for reference
and return when no longer
required.

I have the honour to be
Sir
Your most obdt Servt
Abdul Rahiman
Deputy Commissioner
Shimoga District

Shimoga
6th Nov 1913



8 [illegible] 9-7-192
401 - [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 142 [illegible]

[illegible] 1888-89

[illegible]

[illegible] 24-5-9

[illegible] 401 [illegible]

[illegible]

[illegible]

[illegible] 1888-89 [illegible]

Yours faithfully

for Secretary

7/7/02

produced, there is an alteration in the entry in
column 3 against Survey No 3, and No 171
is described as Jodi Inam - Letters Ba and Ka
in Kanarese have been inserted apparently
signifying Patel Umbali, but the evidence
derived from this document does not appear
to be convincing or conclusive.

There is thus reasonable doubt
regarding the character of the Inam.
Being in the enjoyment of a person who is
not the Patel, the land should be regarded
as having been already alienated. The Officiator,
Patel, cannot complain that his emoluments
have been alienated if lands not in his
possession or enjoyment are sold. The
contention that the service land should
not be sold has, for its object, the
benefit which by the sale will be lost
to the Officiator. In this instance, no such
loss results to the officiator, Patel. No
exemption of such land is made under
section 266 of the Civil Procedure Code, and

it

46

Supt of Rev Survey were called for on 14th & Chents at Rao's mems of 7/6/93.

~~It left~~ The final result of these discussions was embodied in SO of 3/1/94 (copy put up) which restricted itself to the disposal of the claims of patels of absorbed villages. No reason is given in the file itself as to why the other proposals in the mems of 7/6/93 were dropped but it has to be inferred that this was done because Col Grant was of opinion that only a Village Officers' Regulation can satisfactorily dispose of such large questions & deprecated the passing of circulars from time to time piecemeal.

index cases are sawbe exhausted

47 48 49

2) As regards the Dewan's memo dt 4/1/99, the powers of the Dy Comrs of Dts, the Dy Inspr of Police & the Supdt of Rev Survey were called for and have been ~~called for~~ received. The 2nd Councillor has also recorded his views & the file is said to have been put up to Dewan on 16/1/99.

24/3/99

Submitted

The above note was seen by the Revenue Councillor, Eastern Division.

Orders were not passed on Case No. IV/2, the only in the file below other case belonging to the Eastern Division, as the Dewan Bahadur has ordered thereon that it was "under consideration". Petn No. 1300 dated 1.2.99 is also put up.

CER 25/3/99

(9)

10 Before the Govt of Mysore

Present

C. Srinivasiengar Esqr

and

Rao Bahadur C. Madiah Esqr.

Appeal No 29 of 1890-91

Appts. Respondents

Seshia 1) Shamaiyah

2) Lyndappa

Subject

Appeal against the ~~order~~ order of the Dy: Commr ~~order~~ declining to interfere with the sale of a Shanbhogi service land held by the Munsiff's Court of Shemoga in satisfaction of a decree against the uncles of the appts.

Facts of the case

In execution of a decree obtained by one Hanumanthappa against Shamaiyah, uncle of the appts, in O.S. No 1104 of 1888 on the file of the Munsiff of Shemoga, S. No 142 (a 6-36 9 Subsequent valuation Rs 13) which was the official land attached to the Shanbhogi Office

of Harmaghatta and fully assessed at the Potgi settlement in 1885-86 was proceeded against and sold by public auction on 21st March 1889 and purchased by one Gundappa. The applt who is the Shanbhog of Harmaghatta did not oppose the sale at the time owing to his alleged ignorance of it, but complained to the Dy Commr subsequently who declined to interfere.

× Remission of Rs 10 ½ Rcs

Decision

The land in question having changed hands so far back as 1889 (1889. Vide ¶) Govt do not consider that any interference on their part is called for at this distance of time

No. 70 P. P. 10-02 dy. 7.10.02 Encl files

Copy forwarded to the Dy Commr, Shemoga Dist to together with the records rec'd with his letter No 601/568 dy 6-11-91

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Forsey